

HOUSE BILL NO. 673

INTRODUCED BY B. HOVEN

A BILL FOR AN ACT ENTITLED: "AN ACT MITIGATING THE EFFECTS OF PROPERTY TAX REAPPRAISAL; PHASING IN CHANGES TO THE TAX RATES OF CLASS FOUR AND CLASS TEN PROPERTY; ESTABLISHING EXEMPTION RATES FOR RESIDENTIAL AND COMMERCIAL CLASS FOUR PROPERTY; REVISING THE METHOD FOR VALUING AGRICULTURAL PROPERTY BY INCREASING WATER LABOR COSTS FOR IRRIGATED LAND AND PROVIDING THAT SPRING WHEAT FROM SUMMER FALLOW LAND IS THE BASE CROP FOR IRRIGATED LAND; INCREASING THE THRESHOLD AMOUNT NECESSARY FOR ELIGIBILITY OF SMALL PARCELS TO BE ELIGIBLE FOR VALUATION AS AGRICULTURAL; ESTABLISHING A FOREST LANDS TAXATION ADVISORY COMMITTEE TO ADVISE THE DEPARTMENT OF REVENUE IN ITS DETERMINATION OF THE VALUE OF FOREST LANDS; PROVIDING FOR THE APPOINTMENT AND TERMS OF THE MEMBERS OF THE COMMITTEE; AMENDING SECTIONS 15-6-134, 15-6-143, 15-6-193, 15-6-222, 15-7-111, 15-7-201, 15-7-202, AND 15-44-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections (1)(f) and (1)(g) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for

a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (1)(c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(e) subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(f) (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

(g) (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), and (1)(e) through (1)(g) of this section is taxed at:

(i) ~~3.22%~~ 2.85% of its taxable market value in tax year ~~2005~~ 2009;

(ii) ~~3.14%~~ 2.7% of its taxable market value in tax year ~~2006~~ 2010;

(iii) ~~3.07%~~ 2.57% of its taxable market value in tax year ~~2007~~ 2011;

(iv) 2.45% of its taxable market value in tax year 2012;

(v) 2.35% of its taxable market value in tax year 2013; and

~~(iv)~~(vi) ~~3.01%~~ 2.25% of its taxable market value in tax years after ~~2007~~ 2013.

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
	Head of Household	

1	\$0 - \$ 6,000	\$0 - \$8,000	20%
2	\$6,001 - \$9,200	\$8,001 - \$14,000	50%
3	\$9,201 - \$15,000	\$14,001 - \$20,000	70%

4 (ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually
5 by the department. The adjustment to the income levels is determined by:

6 (A) multiplying the appropriate dollar ~~amount~~ amounts in subsection (1)(c) and from the table in
7 subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to
8 the PCE for the second quarter of 1995; and

9 (B) rounding the product thus obtained to the nearest whole dollar amount.

10 (iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly
11 in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

12 (c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established
13 in subsection (2)(a).

14 (3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as
15 commercial property is comparable only to other property assessed as commercial property and property
16 assessed as other than commercial property is comparable only to other property assessed as other than
17 commercial property."

18

19 **Section 2.** Section 15-6-143, MCA, is amended to read:

20 **"15-6-143. Class ten property -- description -- taxable percentage.** (1) Class ten property includes
21 all forest lands as defined in 15-44-102.

22 (2) Class ten property ~~is taxed at 0.79% of its forest productivity value in tax year 1999, and the rate is~~
23 ~~reduced by 0.11% each year until the property is taxed at:~~

24 (a) for tax year 2009, 0.35% 0.32% of its forest productivity value;

25 (b) for tax year 2010, 0.3% of its forest productivity value;

26 (c) for tax year 2011, 0.28% of its forest productivity value;

27 (d) for tax year 2012, 0.26% of its forest productivity value;

28 (e) for tax year 2013, 0.24% of its forest productivity value; and

29 (f) for tax years after 2013, 0.23% of its forest productivity value."

30

1 **Section 3.** Section 15-6-193, MCA, is amended to read:

2 **"15-6-193. Extended property tax assistance -- phasein.** (1) For the purpose of mitigating
3 extraordinary market value increases during revaluation cycles ~~that begin after December 31, 2008~~, the rate of
4 taxation of class four residential dwellings and appurtenant land not to exceed 5 acres otherwise set in
5 15-6-134(2)(a) is adjusted in this section for properties with extraordinary increases in market value with owners
6 that meet income requirements.

7 (2) An annual application on a form provided by the department is required to receive a tax rate
8 adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted
9 only for the current tax year and may not be granted for a previous year.

10 (3) A rate adjustment may not be granted for:

11 (a) any property that was sold or for which the ownership was changed after December 31 of the last
12 year of the previous revaluation cycle unless the change in ownership is between husband and wife or parent
13 and child with only nominal actual consideration or the change is pursuant to a divorce decree;

14 (b) the value of new construction, including remodeling, on the property occurring after December 31
15 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements;
16 or

17 (c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that
18 increases the market value of the land by more than 25%.

19 (4) For the purposes of determining the adjustment in the class four property tax rate in this section, the
20 following provisions apply ~~for revaluation cycles beginning after December 31, 2008~~:

21 (a) (i) The percentage increase in taxable value is measured as the percentage change in taxable value
22 before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by
23 multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before
24 reappraisal times the tax rate before reappraisal. The taxable value after reappraisal is calculated by multiplying
25 the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times
26 the tax rate after reappraisal.

27 (ii) The tax rate before reappraisal is the tax rate that was in effect during the last year of the previous
28 reappraisal cycle.

29 (iii) The tax rate after reappraisal is the tax rate that will be in effect during the last year of the current
30 reappraisal cycle.

(iv) The homestead exemption before reappraisal is the homestead exemption that was in effect during the last year of the previous reappraisal cycle.

(v) The homestead exemption after reappraisal is the homestead exemption that will be in effect during the last year of the current reappraisal cycle.

(b) The dollar increase in tax liability is measured as the percentage change in tax liability before reappraisal to the tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before reappraisal times the result of 1.00 minus the homestead exemption before reappraisal times the tax rate before reappraisal times the mill levy applied to the property before reappraisal. The tax liability after reappraisal is calculated by multiplying the market value after reappraisal times the result of 1.00 minus the homestead exemption after reappraisal times the tax rate after reappraisal times the mill levy applied to the property before reappraisal. The mill levy applied to the property before reappraisal is the total of all mills applied to the property in the last year of the previous reappraisal cycle.

(c) Total household income is the sum of the income of all members of the household and all other persons who are owners of the property. Income, as used in this section, includes income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A household is an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. For single-family rental dwellings, total household income does not include the income of the tenant.

(d) The phase-in value is the valuation change made pursuant to 15-7-111~~(3)~~(5) since the last reappraisal.

(5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater than ~~24%~~ 55%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such so~~ that the total increase in taxable value over the reappraisal cycle is ~~24%~~ 55% and ~~such so~~ that the change in taxable value is phased in over the reappraisal cycle in equal increments.

(b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is \$250 or greater,

1 then the property qualifies for an adjusted tax rate. The adjusted tax rate must be calculated ~~such so~~ that the total
2 increase in taxable value over the reappraisal cycle is ~~30%~~ 60% and ~~such so~~ that the change in taxable value
3 is phased in over the reappraisal cycle in equal increments.

4 (c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage
5 increase in taxable value is greater than ~~30%~~ 60%, and the dollar increase in taxable liability is \$250 or greater,
6 then the property qualifies for an adjusted tax rate. The adjusted tax rate will be calculated ~~such so~~ that the total
7 increase in taxable value over the reappraisal cycle is ~~36%~~ 70% and ~~such so~~ that the change in taxable value
8 is phased in over the reappraisal cycle in equal increments.

9 (d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of
10 1%.

11 (6) A person who applies for a tax rate adjustment under this section shall provide the department with
12 documentation of total household income and other information that the department considers necessary to
13 determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine
14 eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-303.

15 (7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax
16 rate adjustment is guilty of false swearing under 45-7-202.

17 (8) For the purposes of this section, "entity" means:

18 (a) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-101; and

19 (b) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person."
20

21 **Section 4.** Section 15-6-222, MCA, is amended to read:

22 **"15-6-222. Residential and commercial improvements -- percentage of value exempt.** (1) The
23 following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f) is exempt
24 from property taxation:

25 (a) ~~32%~~ 35.9% for tax year ~~2005~~ 2009;

26 (b) ~~32.6%~~ 37.4% for tax year ~~2006~~ 2010;

27 (c) ~~33.2%~~ 38.7% for tax year ~~2007~~ 2011;

28 (d) 39.9% for tax year 2012;

29 (e) 41.1% for tax year 2013;

30 (d)(f) ~~34%~~ 42% for tax year ~~2008~~ 2014 and succeeding tax years.

(2) The following percentage of the market value of commercial property described in 15-6-134(1)(g) is exempt from property taxation:

(a) ~~13.8%~~ 15.3% for tax year ~~2005~~ 2009;

(b) ~~14.2%~~ 15.5% for tax year ~~2006~~ 2010;

(c) ~~14.6%~~ 15.7% for tax year ~~2007~~ 2011;

(d) 15.9% for tax year 2012;

(e) 16.4% for tax year 2013;

~~(d)(f)~~ 15% 16.6% for tax year ~~2008~~ 2014 and succeeding tax years."

Section 5. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of certain taxable property. (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually.

(2) The department shall value and phase in the value of newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation and phased-in value of new, remodeled, or reclassified property within the same class.

(3) The revaluation of class three, four, and ten property is complete on December 31, 2008. The amount of the change in valuation from the 2002 base year for each property in classes three, four, and ten must be phased in each year at the rate of 16.66% of the change in valuation.

(4) The department shall provide the revenue and transportation interim committee, during the end of the second and fourth year of each revaluation cycle, a sales assessment ratio study of residences to be used to allow the committee to be apprised of the housing market and value trends.

~~(3)(5)~~ (5) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, ~~2009~~ 2015, effective for January 1, ~~2009~~ 2015, and each succeeding 6 years. The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%."

1

2 **Section 6.** Section 15-7-201, MCA, is amended to read:

3 **"15-7-201. Legislative intent -- value of agricultural property.** (1) Because the market value of many
4 agricultural properties is based upon speculative purchases that do not reflect the productive capability of
5 agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a
6 value that is exclusive of values attributed to urban influences or speculative purposes.

7 (2) Agricultural land must be classified according to its use, which classifications include but are not
8 limited to irrigated use, nonirrigated use, and grazing use.

9 (3) Within each class, land must be subclassified by production categories. Production categories are
10 determined from the productive capacity of the land based on yield.

11 (4) In computing the agricultural land valuation schedules to take effect on the date when each
12 revaluation cycle takes effect pursuant to 15-7-111, the department of revenue shall determine the productive
13 capacity value of all agricultural lands using the formula $V = I/R$ where:

14 (a) V is the per-acre productive capacity value of agricultural land in each land use and production
15 category;

16 (b) I is the per-acre net income of agricultural land in each land use and production category and is to
17 be determined as provided in subsection (5); and

18 (c) R is the capitalization rate and, unless the advisory committee recommends a different rate and the
19 department adopts the recommended capitalization rate by rule, is equal to 6.4%. This capitalization rate must
20 remain in effect until the next revaluation cycle.

21 (5) (a) Net income must be determined separately in each land use based on production categories.

22 (b) Net income must be based on commodity price data, which may include grazing fees, crop and
23 livestock share arrangements, cost of production data, and water cost data for the base period using the best
24 available data.

25 (i) Commodity price data and cost of production data for the base period must be obtained from the
26 Montana Agricultural Statistics, the Montana crop and livestock reporting service, and other sources of publicly
27 available information if considered appropriate by the advisory committee.

28 (ii) Crop share and livestock share arrangements are based on typical agricultural business practices and
29 average landowner costs.

30 (iii) Allowable water costs consist only of the per-acre labor costs, energy costs of irrigation, and, unless

1 the advisory committee recommends otherwise and the department adopts the recommended cost by rule, a
2 base water cost of ~~\$5.50~~ \$15 for each acre of irrigated land. Total allowable water costs may not exceed \$40 for
3 each acre of irrigated land. Labor and energy costs must be determined as follows:

4 (A) Labor costs are ~~zero~~ \$5 an acre for pivot sprinkler irrigation systems; ~~\$4.50~~ \$10 an acre for tow lines,
5 side roll, and lateral sprinkler irrigation systems; and ~~\$9~~ \$15 an acre for hand-moved and flood irrigation systems.

6 (B) Energy costs must be based on per-acre energy costs incurred in the energy cost base year, which
7 is the calendar year immediately preceding the year specified by the department in 15-7-103(5). By July 1 of the
8 year following the energy cost base year, an owner of irrigated land shall provide the department, on a form
9 prescribed by the department, with energy costs incurred in that energy cost base year. In the event that no
10 energy costs were incurred in the energy cost base year, the owner of irrigated land shall provide the department
11 with energy costs from the most recent year available. The department shall adjust the most recent year's energy
12 costs to reflect costs in the energy cost base year.

13 (c) The base crop for valuation of irrigated land is ~~alfalfa hay~~ spring wheat from summer fallow farm land,
14 ~~adjusted to 80% of sales price~~, and the base crop for valuation of nonirrigated land is spring wheat. The base unit
15 for valuation of grazing lands is animal unit months (AUM), defined as the average monthly requirement of
16 pasture forage to support a 1,000-pound cow with a calf or its equivalent.

17 (d) Unless the advisory committee recommends a different base period and the department adopts the
18 recommended base period by rule, the base period used to determine net income must be the most recent 7
19 years for which data is available prior to the date the revaluation cycle ends. Unless the advisory committee
20 recommends a different averaging method and the department adopts the recommended averaging method by
21 rule, data referred to in subsection (5)(b) must be averaged, but the average must exclude the lowest and highest
22 yearly data in the period.

23 (6) The department shall compile data and develop valuation manuals adopted by rule to implement the
24 valuation method established by subsections (4) and (5).

25 (7) The governor shall appoint an advisory committee of persons knowledgeable in agriculture and
26 agricultural economics. The advisory committee shall include one member of the Montana state
27 university-Bozeman, college of agriculture, staff. The advisory committee shall:

28 (a) compile and review data required by subsections (4) and (5);

29 (b) recommend to the department any adjustments to data or to landowners' share percentages if
30 required by changes in government agricultural programs, market conditions, or prevailing agricultural practices;

- 1 (c) recommend appropriate base periods and averaging methods to the department;
- 2 (d) evaluate the appropriateness of the capitalization rate and recommend a rate to the department;
- 3 (e) verify for each class of land that the income determined in subsection (5) reasonably approximates
- 4 that which the average Montana farmer or rancher could have attained; and
- 5 (f) recommend agricultural land valuation schedules to the department. With respect to irrigated land,
- 6 the recommended value of irrigated land may not be below the value that the land would have if it were not
- 7 irrigated."

8

9 **Section 7.** Section 15-7-202, MCA, is amended to read:

10 **"15-7-202. Eligibility of land for valuation as agricultural.** (1) (a) Contiguous parcels of land totaling

11 160 acres or more under one ownership are eligible for valuation, assessment, and taxation as agricultural land

12 each year that none of the parcels is devoted to a residential, commercial, or industrial use.

13 (b) (i) Contiguous parcels of land of 20 acres or more but less than 160 acres under one ownership that

14 are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural land

15 if:

16 (A) the land is used primarily for raising and marketing, as defined in subsection (1)(c), products that

17 meet the definition of agricultural in 15-1-101 and if, except as provided in subsection (3), the owner or the

18 owner's immediate family members, agent, employee, or lessee markets not less than ~~\$1,500~~ \$3,000 in annual

19 gross income from the raising of agricultural products produced by the land; or

20 (B) the parcels would have met the qualification set out in subsection (1)(b)(i)(A) were it not for

21 independent, intervening causes of production failure beyond the control of the producer or a marketing delay

22 for economic advantage, in which case proof of qualification in a prior year will suffice.

23 (ii) Noncontiguous parcels of land that meet the income requirement of subsection (1)(b)(i) are eligible

24 for valuation, assessment, and taxation as agricultural land under subsection (1)(b)(i) if:

25 (A) the land is an integral part of a bona fide agricultural operation undertaken by the persons set forth

26 in subsection (1)(b)(i) as defined in this section; and

27 (B) the land is not devoted to a residential, commercial, or industrial use.

28 (iii) Parcels of land of 20 acres or more but less than 160 acres that do not meet the income requirement

29 of subsection (1)(b)(i) may also be valued, assessed, and taxed as agricultural land if the owner:

30 (A) applies to the department requesting classification of the parcel as agricultural;

(B) verifies that the parcel of land is greater than 20 acres but less than 160 acres and that the parcel is located within 15 air miles of the family-operated farming entity referred to in subsection (1)(b)(iii)(C); and

(C) verifies that:

(I) the owner of the parcel is involved in agricultural production by submitting proof that 51% or more of the owner's Montana annual gross income is derived from agricultural production; and

(II) property taxes on the property are paid by a family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the entity's Montana annual gross income is derived from agricultural production; or

(III) the owner is a shareholder, partner, owner, or member of the family corporation, family partnership, sole proprietorship, or family trust that is involved in Montana agricultural production and 51% of the person's or entity's Montana annual gross income is derived from agricultural production.

(c) For the purposes of this subsection (1):

(i) "marketing" means the selling of agricultural products produced by the land and includes but is not limited to:

(A) rental or lease of the land as long as the land is actively used for grazing livestock or for other agricultural purposes; and

(B) rental payments made under the federal conservation reserve program or a successor to that program;

(ii) land that is devoted to residential use or that is used for agricultural buildings and is included in or is contiguous to land under the same ownership that is classified as agricultural land, other than nonqualified agricultural land described in 15-6-133(1)(c), must be classified as agricultural land, and the land must be valued as provided in 15-7-206.

(2) Contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use are eligible for valuation, assessment, and taxation as agricultural each year that the parcels meet any of the following qualifications:

(a) except as provided in subsection (3), the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than ~~\$1,500~~ \$3,000 in annual gross income from the raising of agricultural products as defined in 15-1-101;

(b) the parcels would have met the qualification set out in subsection (2)(a) were it not for independent, intervening causes of production failure beyond the control of the producer or marketing delay for economic

1 advantage, in which case proof of qualification in a prior year will suffice; or

2 (c) in a prior year, the parcels totaled 20 acres or more and qualified as agricultural land under this
3 section, but the number of acres was reduced to less than 20 acres for a public use described in 70-30-102 by
4 the federal government, the state, a county, or a municipality, and since that reduction in acres, the parcels have
5 not been further divided.

6 (3) For grazing land to be eligible for classification as agricultural land under subsections (1)(b) and (2),
7 the land must be capable of sustaining a minimum number of animal unit months of carrying capacity. The
8 minimum number of animal unit months of carrying capacity must equate to ~~\$1,500~~ \$3,000 in annual gross
9 income as determined by the Montana state university-Bozeman department of agricultural economics and
10 economics.

11 (4) Parcels that do not meet the qualifications set out in subsections (1) and (2) may not be classified
12 or valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in
13 compliance with the Montana Subdivision and Platting Act.

14 (5) Land may not be classified or valued as agricultural land or nonqualified agricultural land if it has
15 stated covenants or other restrictions that effectively prohibit its use for agricultural purposes.

16 (6) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide
17 agricultural enterprise is not considered a bona fide agricultural operation.

18 (7) The department may not classify land less than 160 acres as agricultural unless the owner has
19 applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which
20 no application for agricultural classification has been made is valued as provided in 15-6-133(1)(c) and is taxed
21 as provided in 15-6-133(3). If land has been valued, assessed, and taxed as agricultural land in any year, it must
22 continue to be valued, assessed, and taxed as agricultural until the department reclassifies the property. A
23 reclassification does not mean revaluation pursuant to 15-7-111.

24 (8) For the purposes of this part, growing timber is not an agricultural use.

25 (9) By November 1 of each year, the department shall multiply the gross annual income amount
26 contained in subsection (1)(b)(i)(A), (2)(a), and (3) by the inflation factor defined in 15-30-101, but using the
27 consumer price index for June 2009, for the year and round the amount to the nearest \$10. The resulting gross
28 annual income amount is effective for the next property tax year and must be used as the basis for determining
29 eligibility of land for valuation as agricultural."

1 **Section 8.** Section 15-44-103, MCA, is amended to read:

2 **"15-44-103. Legislative intent -- value of forest lands -- valuation zones.** (1) In order to encourage
3 landowners of private forest lands to retain and improve their holdings of forest lands, to promote better forest
4 practices, and to encourage the investment of capital in reforestation, forest lands must be classified and
5 assessed under the provisions of this section.

6 (2) The forest productivity value of forest land must be determined by:

7 (a) capitalizing the value of the mean annual net wood production at the culmination of mean annual
8 increment plus other agriculture-related income, if any; less

9 (b) annualized expenses, including but not limited to the establishment, protection, maintenance,
10 improvement, and management of the crop over the rotation period.

11 (3) To determine the forest productivity value of forest lands, the department shall:

12 (a) divide the state into appropriate forest valuation zones, with each zone designated so as to recognize
13 the uniqueness of marketing areas, timber types, growth rates, access, operability, and other pertinent factors
14 of that zone; and

15 (b) establish a uniform system of forest land classification that takes into consideration the productive
16 capacity of the site to grow forest products and furnish other associated agricultural uses.

17 (4) In computing the forest land valuation schedules for each forest valuation zone ~~to take effect on~~
18 ~~January 1, 1994~~, the department shall determine the productive capacity value of all forest lands in each forest
19 valuation zone using the formula $V = I/R$, where:

20 (a) V is the per-acre forest productivity value of the forest land;

21 (b) I is the per-acre net income of forest lands in each valuation zone and is determined by the
22 department using the formula $I = (M \times SV) + AI - C$, where:

23 (i) I is the per-acre net income;

24 (ii) M is the mean annual net wood production;

25 (iii) SV is the stumpage value;

26 (iv) AI is the per-acre agriculture-related income; and

27 (v) C is the per-unit cost of the forest product and agricultural product produced, if any; and

28 (c) R is the capitalization rate determined by the department as provided in subsection (6).

29 (5) Net income must:

30 (a) be calculated for each year of a base period, which is the most recent 5-year period for which data

1 is available;

2 (b) be based on a rolling average of stumpage value of timber harvested within the forest valuation zone
3 and on the associated production cost data for the base period from sources considered appropriate by the
4 department; and

5 (c) include agriculture-related net income for the same time period as the period used to determine
6 average stumpage values.

7 (6) The capitalization rate must be calculated for each year of the base period and is the annual average
8 interest rate on agricultural loans as reported by the Northwest farm credit services, agricultural credit association
9 of Spokane, Washington, plus the effective tax rate.

10 (7) The effective tax rate must be calculated for each year of the base period by dividing the total
11 estimated tax due on forest lands subject to the provisions of this section by the total forest value of those lands.

12 (8) For the purposes of this section, if forest service sales are used in the determination of stumpage
13 values, the department shall take into account purchaser road credits.

14 (9) In determining the forest productivity value of forest lands and in computing the forest land valuation
15 schedules, the department shall use information and data provided by the university of Montana-Missoula.

16 (10) (a) There is a forest lands taxation advisory committee consisting of:

17 (i) four members with expertise in forest matters, one appointed by the majority leader of the senate, one
18 by the minority leader of the senate, one by the majority leader of the house of representatives, and one by the
19 minority leader of the house of representatives; and

20 (ii) three members appointed by the governor, one who is an industrial forest landowner, one who is a
21 nonindustrial forest landowner, and one who is a county commissioner.

22 (b) The terms of the members expire on December 31 of each even-numbered year.

23 (c) The advisory committee shall:

24 (i) review data required by subsections (2) through (4), (8), and (9), including data on productivity value,
25 stumpage value, wood production, net income, and agriculture-related income;

26 (ii) recommend to the department any adjustments to data if required by changes in government forest
27 land programs, market conditions, or prevailing forest lands practices;

28 (iii) recommend appropriate base periods and averaging methods to the department;

29 (iv) verify for each forest valuation zone and forest land classification under subsection (3) that the
30 income determined in subsection (5) reasonably approximates that which the average Montana forest landowner

1 could have attained; and
2 (v) recommend forest land valuation schedules to the department."

3

4 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

5

6 NEW SECTION. Section 10. Retroactive applicability. [This act] applies retroactively, within the
7 meaning of 1-2-109, to tax years beginning after December 31, 2008.

8 - END -